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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
SUBCOMMITTEE ON CAPITAL MARKETS AND
GOVERNMENT SPONSORED ENTERPRISES
SUBCOMMITTEE ON
HOUSING AND INSURANCE

The Honorable Ajit Pai, Chairman
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

May 8, 2018

Dear Chairman Pai:

I write to request the details of your appointment of Ms. Elizabeth Ann Pierce to the Federal Communications Commission's (FCC) Broadband Deployment Advisory Committee (BDAC), and her resignation from the BDAC five months later. I am concerned that Ms. Pierce's involvement in the process of the BDAC irreparably taints any recommendations made by the Committee.

In April 2017, you appointed Ms. Pierce be the chair of the BDAC, which is the FCC advisory committee tasked with providing advice and recommendations to the FCC on "how to accelerate the deployment of high-speed internet access."¹ At the time of her appointment, Ms. Pierce was the Chief Executive Officer of Quintillion Subsea Operations, LLC, and Quintillion Networks, LLC (Quintillion). These companies build and operate fiber-optic telecommunications network.² In September 2017, the FCC released a public notice announcing Ms. Pierce's resignation, citing "personal reasons" for leaving the Committee.³ In that public notice, you thanked Ms. Pierce for her service, adding that "she did an excellent job leading the BDAC through its first two public meetings. I am sorry to see her go and wish her the best in her future endeavors."⁴ In August 2017, one month before leaving the BDAC, Ms. Pierce resigned as CEO from Quintillion,⁵ also citing "personal reasons."⁶

On April 12, 2018, Ms. Pierce was arrested for wire fraud by the FBI.⁷ According to the Department of Justice (DOJ), between May and July of 2017, Ms. Pierce "engaged in a scheme to induce two investment companies to invest more than \$250 million in the Fiber Optic System by providing them with forged broadband capacity sales contracts."⁸ DOJ indicated that a customer of Quintillion began disputing invoices related to one of the contracts forged by Ms. Pierce in April 2017.⁹

According to the Justice Department's complaint, on July of 2017, Ms. Pierce deleted the forged contracts from her Google drive account. One month later, Ms. Pierce resigned from Quintillion, and the following month, resigned from the BDAC.¹⁰

The timing of these events is unclear, and Ms. Pierce's case has not yet gone to trial. But if the allegations are true, it appears that Ms. Pierce may have been engaging in fraudulent behavior related to her own telecommunications company at the same time she was chosen by you to lead – and was leading – an important FCC committee. This is deeply troubling, raising questions about the process by which members of the committee were chosen, its deliberations, and its recommendations to the FCC commissioners.

In order to understand the appointment of Ms. Pierce, her role with the BDAC, and her actions before and during her service as BDAC Chair, I ask that you provide me with the following information:

1. What was the process for choosing Ms. Pierce to Chair the BDAC?
 - a. When did you first contact her about this role?
 - b. Were other candidates considered for this role? If so, why was Ms. Pierce selected over them?
 - c. What was the vetting process for choosing her?
 - d. Were there any problems identified during this process?
 - e. Did you personally discuss any issue related to Quintillion with Ms. Pierce? If so, what was the nature of these discussions?
 - f. Did any of your staff personally discuss any issue related to Quintillion with Ms. Pierce? If so, what was the nature of these discussions?
 - g. Did you or your staff consult with any outside lobbyists or outside entities about her appointment? If so, please list these individuals and the organizations or entities they were representing.
2. What policies does the FCC have in place to prevent conflicts of interest in the BDAC and its advisory committees?
 - a. Did Ms. Pierce have to sign an ethics agreement or any legal agreement or certification of any kind in order to participate in an FCC advisory committee? If so, please provide a copy of these agreements.
 - b. Did she recuse herself from any discussions or decisions of the BDAC because of any conflicts of interest or for any other reason?
3. What policies does the BDAC have in place to prevent conflicts of interest?
 - a. Did Ms. Pierce have to sign an ethics agreement or any legal agreement or certification of any kind in order to chair the BDAC? If so, please provide a copy of these agreements.
 - b. Did she recuse herself from any discussions or decisions of the BDAC because of any conflicts of interest or for any other reason?
4. What was Ms. Pierce's role on the BDAC?

- a. What recommendations were she responsible for?
 - b. Was Ms. Pierce responsible for the Commission being set up to produce a majority report, rather than a consensus report?
 - c. Have all deliberations and discussions of the BDAC been made public? If not, by what date will they be public? Please include all public documents relating to BDAC recommendations that Ms. Pierce was responsible for.
5. When did you or your staff first become aware of allegations that Ms. Pierce may have engaged in potentially illegal schemes as CEO of Quintillion LLC?
 - a. Were you or your staff aware of these allegations when you chose Ms. Pierce to Chair the BDAC in April 2017?
 - b. Were you or your staff aware of these allegations prior to Ms. Pierce's resignation from the BDAC in September 2017?
 - c. What actions did you take when you learned of these allegations? Please include any internal communications between FCC employees regarding Ms. Pierce's alleged illicit conduct.

I respectfully request answers to my questions by May 21, 2018. If you have any questions or concerns, please contact my staff, Zach Freed. He can be reached at zach.freed@mail.house.gov.

Sincerely,



Keith Ellison
Member of Congress

¹ "Public Notice: FCC Announces the Membership and First Meeting of the Broadband Deployment Advisory Committee." *Federal Communications Commission*. (April 6, 2017). Online at: <https://www.fcc.gov/document/broadband-deployment-advisory-committee-members-and-meeting>.

² Grove, C. "Charges: Ex Quintillion CEO duped investors in Arctic broadband project." *Alaska Public*. (April 12, 2018). Online at: <https://www.alaskapublic.org/2018/04/12/charges-ex-quintillion-ceo-duped-investors-in-arctic-broadband-project/>.

³ "Public Notice: Chairman Pai Announces New Broadband Deployment Advisory Committee Chair and New Member." *Federal Communications Commission*. (September 1, 2017). Online at: https://apps.fcc.gov/edocs_public/attachmatch/DA-17-834A1.pdf.

⁴ Ibid.

⁵ Downing, S. "Quintillion CEO out, new one in, as project nears completion." *Must Read Alaska*. (August 4, 2017). Online at: <http://mustreadalaska.com/quintillion-ceo-new-one-project-nears-completion/>.

⁶ "QUINTILLION NAMES INTERIM CEO." *Quintillion*. (August 2017). Online at: <http://qexpressnet.com/quintillion-names-interim-ceo/>.

⁷ "Release: Manhattan U.S. Attorney Announces Arrest Of Former CEO Of Alaska-Based Fiber Optic Company For Perpetrating A Multimillion-Dollar Investment Fraud Scheme" *United States Department of Justice*. (April 12,

2018). Online at: <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-arrest-former-ceo-alaska-based-fiber-optic-company>.

⁸ Ibid.

⁹ Ibid.

¹⁰ “U.S. v. Elizabeth Ann Pierce Complaint” *United States Department of Justice*. (April 12, 2018) Online at: <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-arrest-former-ceo-alaska-based-fiber-optic-company>



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

September 27, 2018

The Honorable Keith Ellison
U.S. House of Representatives
2263 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Ellison:

Thank you for your letter regarding the participation of Ms. Elizabeth Ann Pierce on one of the Federal Communications Commission's advisory committees. As with all advisory committees, the Commission followed the requirements of the Federal Advisory Committee Act regarding the selection of Ms. Pierce and other members of the Broadband Deployment Advisory Committee. The selection process for all individuals nominated for a federal advisory committee includes ethics vetting by the Commission's Office of General Counsel. The Office of General Counsel reviews nominations to determine whether the nominee would serve to represent the interests of an entity with perspectives and often commercial interests relevant to the subject matter focus of the advisory committee (and for special government employees, whether he or she would provide disinterested advice to the Commission, subject to federal ethics rules and criminal prohibitions). The Office of General Counsel requests and reviews information from advisory committee nominees regarding personal financial interests and organizational positions to determine whether a nominee might have potential conflicts of interest with respect to matters that might come before the subject advisory committee. The Office of General Counsel provides advice to nominees and to the Commission regarding potential conflicts of interests identified in ethics vetting, including potential disqualification or resolution of conflicts as appropriate. Appointees to Commission advisory committees do not enter into ethics agreements.

The Commission formed the BDAC in early 2017, with a solicitation for applications from potential members that "represent various sectors of the communications industry, as well as state and local regulators, and consumers and community organizations." The Commission received over 380 applications for membership on the BDAC, resulting in the selection of 29 members and the subsequent selection of an additional 58 participants in the BDAC's working groups. The Office of General Counsel completed its ethics vetting process for each nominee before he or she became a member, and no problems regarding personal financial holdings or outside positions were identified in the process for any member.

Among those selected for the BDAC, staff recommended five nominees to potentially chair the committee. After consideration of all the nominees, Ms. Pierce was selected based on her apparent qualifications and recommendations received. Ms. Pierce was first contacted in mid-March 2017 about the possibility of chairing the BDAC and chaired the organizational meeting of the BDAC in April 2017. (I personally never spoke to Ms. Pierce about the BDAC until after she had been selected.) She participated in only one of the BDAC's working groups (Federal Siting Working Group) and chaired one further meeting in July, before working groups had developed any recommendations. In August 2017, my office was informed that Ms. Pierce

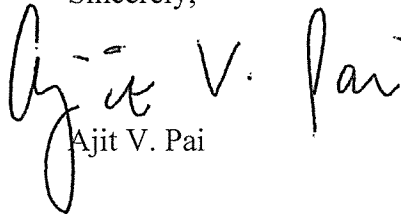
would be stepping down for personal reasons—and she formally resigned in September, before the BDAC or its working groups considered or approved any recommendations.

Neither FCC staff nor I were aware of the Department of Justice's investigation involving Ms. Pierce nor its findings before or during Ms. Pierce's participation in the BDAC.

Finally, you asked to better understand the work of the BDAC. All meetings of the BDAC are open to the public and all documents discussed at the meetings have been made public. In contrast, as with other advisory committees, deliberations by the working groups in formulating a recommendation for consideration are not public, but they are generally prepared by consensus by members of the particular working group. The working group process is followed by deliberation and votes on proposed recommendations by the working group and then by the BDAC. I have been pleased with the progress of the BDAC over the course of the last two years—all adopted recommendations have been approved by at least a super-majority of members, with many approved unanimously. I look forward to hearing the views of all stakeholders as the Commission moves forward with considering the BDAC's recommendations and continues its work to close the digital divide.

Thank you for your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part. Below the signature, the name "Ajit V. Pai" is printed in a standard, sans-serif font.

Ajit V. Pai